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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA AT JUNEAU**

	)	<u>At Law and In Admiralty</u>
MARK SHAW	)	
	)	
Plaintiff,	)	NO.
	)	
v.	)	
JOHN and JANET ENGLE, husband )	)	
and wife, and DUSTY PETERS and )	)	
KIMBERLY PETERS, husband and )	)	
Wife, <u>in Personam</u> , and Fishing )	)	
Vessel DEVYN NICOLE, O.N.520068 )	)	
<u>In rem</u> , its engines, fishing )	)	
permits, fishing history, )	)	
appurtenances, tackle, gear, )	)	
machinery, etc. )	)	
Defendants. )	)	
	)	

SEAMAN'S COMPLAINT FOR MAINTENANCE AND CURE,  
FOR PERSONAL INJURY UNDER THE JONES ACT  
AND GENERAL MARITIME LAW AND FOR WAGES

COMES NOW THE PLAINTIFF, MARK SHAW, and for his complaint against the  
defendants alleges:

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### JURISDICTION

1. This is a claim for personal injuries sustained by a seaman in the course and scope of his employment in respect of a commercial vessel against his employer, and the owner and operator of the vessel. Plaintiff, MARK SHAW, is a seaman within the meaning of the Jones Act (Merchant Marine Act of 1920, 46 U.S.C. § 30104, et seq.) Jurisdiction is vested pursuant to general maritime law, the Jones Act, 46 U.S.C. § 30104, Rule 9(h) of the Federal Rules of Civil Procedure, and common law negligence.

2. Plaintiff seaman may institute and prosecute this suit without prepayment of fees or costs pursuant to 28 U.S.C. § 1916.

3. Plaintiff does not seek to arrest the F/V DEVYN NICOLE at this time, but reserves the right to do so in the future during the pendency of this action.

### THE PARTIES

4. At all times material hereto, Plaintiff, MARK SHAW, was a seaman, employed by Defendants, as a member of the crew of the F/V DEVYN NICOLE, Official Number 520068, a vessel in navigation in the navigable waters of the United States. MARK SHAW is a resident of the State of Washington.

5. At all times material hereto Defendants, JOHN ENGLE and JANET ENGLE were the co-owners and/or co-operators of the F/V DEVYN NICOLE, and were the employer of Plaintiff, MARK SHAW. At all times material hereto Defendants, JOHN ENGLE and JANET ENGLE were doing business in the State of Alaska.

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6. At all times material hereto Defendants, DUSTY PETERS and KIMBERLY PETERS were co-owners and/or co-operators of the F/V DEVYN NICOLE, and were the employer of Plaintiff, MARK SHAW, herein. At all times material hereto Defendants, DUSTY PETERS and KIMBERLY PETERS were doing business in the State of Alaska.

**ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

7. Plaintiff, MARK SHAW, restates paragraphs 1-6 above.

8. On or about July 17, 2012 while working aboard the F/V DEVYN NICOLE, in navigable waters, Plaintiff MARK SHAW, suffered severe permanent injuries to his back. The back injury was caused, in whole or in part, by the negligence of the defendants and the unseaworthiness of the vessel. Defendants were aware of plaintiff's condition.

**JONES ACT CLAIMS**

9. Plaintiff, MARK SHAW, restates paragraphs 1-8 above.

10. Defendants were negligent, as were the officers, agents and employees acting on their behalf by reason of including but not limited to failure to provide a safe place to work, and negligently requiring Plaintiff, MARK SHAW to work rather than obtain medical treatment.

**UNSEAWORTHINESS**

11. Plaintiff, MARK SHAW, restates paragraphs 1-10 above.

12. For additional cause of action against Defendants, Plaintiff, MARK SHAW, alleges Defendants F/V DEVYN NICOLE was unseaworthy at the time and place of Plaintiff, MARK SHAW'S injuries and was not reasonably fit for seamen.

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13. The unseaworthiness of the vessel included, but was not limited to: failure to provide a safe place to work; failure to properly train and supervise.

14. A combination of these items, and each of them, rendered F/V DEVYN NICOLE unseaworthy at the time and place of Plaintiff, MARK SHAW's injuries.

#### MAINTENANCE AND CURE

15. Plaintiff, MARK SHAW, restates paragraphs 1-14 above.

16. As a seaman injured in the course and scope of his employment aboard the F/V DEVYN NICOLE, Plaintiff, MARK SHAW, is entitled to maintenance and cure. Plaintiff, MARK SHAW, has not reached maximum cure, requires further medical treatment, has not been reimbursed for necessary travel and medical expenses, and has not received the full maintenance and cure to which he is entitled. Plaintiff MARK SHAW is entitled to each of the above remedies.

#### EARNED AND UNEARNED WAGES

17. Plaintiff was not provided a written employment agreement for his employment aboard the DEVYN NICOLE in 2012. As a consequence, he is entitled to a rate of pay equal to the highest rate of pay from the port for his earned wages, in an amount to be proven at trial.

18. Plaintiff was entitled to unearned wages through the end of his employment, at rate equal to the highest rate of pay from the port.

#### CLAIMS FOR RELIEF

19. Plaintiff, MARK SHAW, restates paragraphs 1-18 above;

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20. For judgment against Defendants in an amount to be proven at trial for all of Plaintiff, MARK SHAW's general and special damages;

21. For judgment for all loss of wages, unearned wages, earnings and loss of future earning capacity;

22. For pain and suffering, disfigurement, disability and loss of enjoyment of life;

23. For prejudgment and post-judgment interest on any and all awards made;

24. For the reasonable costs of maintaining this suit;

25. For reasonable attorney's fees;

26. For an award for any other relief this Court deems equitable and just.

DATED this 15th day of July, 2015.

SHANE CAREW P.S.

By: 

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